

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. After amending the claims as set forth above, claims 21-38 are now pending in this application. Claims 21 and 23-38 read on the elected species, as detailed below.

Applicants wish to thank the Examiner for the careful consideration given to the claims.

Office Communication dated June 18, 2008

A communication issued by the PTO on June 18, 2008, stated that the Information Disclosure Statement (IDS) filed on May 2, 2008, was not fully responsive to the March 28, 2008, Office Action. Applicants respectfully submit that this Amendment and Reply is fully responsive to the March 28, 2008 Office Action. Applicants also request that the May 2, 2002, IDS be considered, initialed and signed, and a copy of the IDS accompany the next Office Communication.

Additionally, the PTO requested an indication in English of how the references in the May 2, 2008, IDS were used by the Japanese Patent Office (JPO). Appendix A is a copy of the Office Action issued by the JPO in which a full translation is not readily available. However, a summary of the JPO Office Action is as follows, but it is noted that the below summary is not an admission on the part of the Applicants that the JPO's analysis is correct or even applicable:

Pending claims 1-20 are rejected on the ground of lack of novelty or inventive step, by citing prior art documents as follows:

- D1: Japanese Patent Unexamined Publication No. 10-250346;
- D2: Japanese Patent Unexamined Publication No. 2000-38016;
- D3: Japanese Patent Unexamined Publication No. 11-291742;
- D4: Japanese Patent Unexamined Publication No. 6-270654;
- D5: Japanese Patent Unexamined Publication No. 2000-190722;
- D6: Japanese Patent Unexamined Publication No. 2002-46453; and
- D7: Japanese Patent Unexamined Publication No. 7-76207.

The JPO rejected claims 1-5, 10-13, and 17-19 by citing D1 only. According to the JPO, D1 and in particular Figs. 1-3 of D1, is alleged to disclose a housing, a first air flow path, a second airflow path, a first mixing door, a second mixing door, and a sealing edge.

The JPO asserts that Fig. 2 of D1 allegedly shows that the mixing doors 34a, 34b are moved between the completely closed condition and the completely opened condition.

The JPO rejected claims 6-9 and 20 by citing D1 to D5. According to the JPO, D2, D3, and D4 allegedly disclose the features of claims 6-9 and 20. The JPO asserts that it is not inventive to apply the teachings disclosed in D2 to D5 to the teachings disclosed in D1.

The JPO rejected claims 14-15 are rejected by citing D1 to D6. According to the JPO, D6, and in particular Fig. 5 of D6, discloses that a plurality of doors are driven by one driving source.

The JPO rejected claim 16 by citing D1 to D7. According to the JPO, D7, and in particular Fig. 1 of D7, shows that each door is assigned a separate driving source.

Election requirement

Applicants hereby elect the claims of the first species of Figures 1-5, for prosecution in the subject application. New claims 21 and 23-38 read on the elected species.

Applicants, of course, reserve the right to file a divisional application covering the non-elected subject matter and/or to receive consideration of claims to additional species as provided by 37 C.F.R. §1.141 and M.P.E.P. §821.04 (rejoinder).

Request regarding EPO prosecution

The PTO has requested that a history of all rejections made in the corresponding EPO prosecution of the present application and a copy of any allowed claims be submitted. Although it is believed that such a request is not required, Applicants will provide the requested information shortly.

Prior art rejections

Claims 1, 3-5, 12, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 4422120 (“DE ‘120”)¹.

Claims 1-5, 12-14, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19919132 (“DE ‘132”).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE ‘132 in view of U.S. Patent 6,599,182 (“Schwarz”).

¹ It is suggested in the March 28, 2008, Office Action that DE ‘120 was listed in the European search report but not listed in Applicants’ IDS filed on January 31, 2005. Applicants respectfully disagree as the January 31, 2005, IDS lists DE ‘120 as reference A13. Also, it is noted that the January 31, 2005, IDS was signed by the Examiner indicating that all the references in the IDS have been considered.

Claims 1-4, 12, 17-18, and 20 are rejected under 23 U.S.C. 102(b) as being anticipated by DE 19739578 (“DE ‘578”).

Claims 1-4, 6-10, 12, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE ‘578 in view of EP 1070611 (“EP ‘611”).

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE ‘578 in view of EP ‘611 and further in view of DE 4343367 (“DE ‘367”).

Claims 1-20 have been canceled, rendering these rejections moot. However, the cancellation of claim 1-20 is not an admission on the part of the Applicants that the rejections have any merit. For at least these reasons, favorable reconsideration of the rejections is respectfully requested.

Allowability of claims 21-38

New claim 21 recites, among other things, an air conditioner housing comprising: an evaporation device; a heating device; an interior space in which air flow paths are formed, wherein the air flow paths comprise a first air flow path and a second air flow path; a surrounding housing which surrounds the interior space; and an air control device having a first mixing flap assigned to the first air flow path and a second mixing flap assigned to the second airflow path. The first and second mixing flaps each completely open their respectively assigned air flow path in a first functional position and completely close their respectively assigned air flow path in a second functional position. The first and second mixing flaps in their respective first functional positions close off the heating device in a planar fashion such that air is completely lead past sides of the heating device. Each of the first and second mixing flaps comprise a first component mixing flap, a second component mixing flap, and a connecting region which connects the first and second component mixing flaps to one another in a movable fashion. For each of the first and second mixing flaps, a first flap seal is provided at least in a region of the second component mixing flap, the first flap seal being pressed in a planar fashion against an underside of the second component mixing flap at least in the first functional position, the first flap seal extending beyond the connecting region such that, in the first functional position, the first component mixing flap also bears in part against the first flap seal.

Support for this claim is found throughout the specification. For example, the feature of the mixing flaps in the first functional position closing off the heating device in a planar fashion so that the air is completely lead past the sides of the heating device is disclosed on

page 14, lines 20 - 24 of the specification and original claim 19. The feature of each of the mixing flaps comprising a first component mixing flap and a second component mixing flap which are connected to one another in a movable fashion by a connecting region is disclosed in Fig. 5 of the specification and original claims 6 and 7. The feature of a first flap seal being provided at least in the region of the second component mixing flap, which is pressed in a planar fashion against the underside of the second component mixing flap at least in the first functional position and which extends beyond the connecting region such that, in the first functional position, the first component mixing flap also bears in part against the first flap seal is disclosed on page 14, lines 20 - 37 and page 16 lines 1 – 14 of the specification.

According to claim 21, the first flap seal extends beyond the connecting region between the first component mixing flap and the second component mixing flap. As a result, the first flap seal completely seals off the heating device when the mixing flaps are in their first functional position. Consequently, the air flow is reliably let past the heating device.

None of DE '120; DE '132; Schwarz; DE '578; "EP '611 and DE '367 teaches or suggests this combination of features, which may allow the production of maximum cooling power. For instance, none of DE '120; DE '132; Schwarz; DE '578; "EP '611 and DE '367 discloses the configuration and interaction of the first flap seal, the first component mixing flap, and the second component mixing flap of claim 21. Accordingly, claim 21 is allowable over the prior art.

Claims 22-38 are allowable for the same reasons as claim 21, without regard to the further patentable features contained therein.

For at least these reasons, allowance of claims 21-38 is respectfully requested.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect

information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 6/27/05

By PDS

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APPENDIX A: JAPANESE OFFICE ACTION

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 発送日 平成20年 3月25日
 拒絶理由通知書
 15 APR. 2008
 Mitarbeiter _____

特許出願の番号 特願2004-526673
 起案日 平成20年 3月12日
 特許庁審査官 鈴木 敏史 3433 3M00
 特許出願人代理人 田辺 徹 様
 適用条文 第29条第1項、第29条第2項

この出願は、次の理由によって拒絶をすべきものです。これについて意見がありましたら、この通知書の発送の日から3か月以内に意見書を提出してください。

理由

【理由1】

この出願（以下、「本願」という。）の下記の請求項に係る発明は、その出願前に日本国内又は外国において、頒布された下記の刊行物に記載された発明又は電気通信回線を通じて公衆に利用可能となった発明であるから、特許法第29条第1項第3号に該当し、特許を受けることができない。

【理由2】

本願の下記の請求項に係る発明は、その出願前に日本国内又は外国において、頒布された下記の刊行物に記載された発明又は電気通信回線を通じて公衆に利用可能となった発明に基いて、その出願前にその発明の属する技術の分野における通常の知識を有する者が容易に発明をすることができたものであるから、特許法第29条第2項の規定により特許を受けることができない。

記 (引用文献等については引用文献等一覧参照)

- ・請求項 1-5, 10-13, 17-19
- ・理由 1, 2
- ・引用文献等 1
- ・備考

引用文献1の段落【0036】-【0057】、図1-3を参照されたい。

引用文献1に記載された発明の「空調ユニットケーシング31」、「バイパス路35a」、「バイパス路35b」、「ミックスドア34a」、「ミックスドア34b」、「リップ31a」は、本願発明の「ハウ징」、「第1空気流路」、

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「第2空気流路」、「第1混合ドア」、「第2混合ドア」、「密封棧」にそれぞれ相当する。

また、引用文献1の段落【0040】、図2には、ミックスドア34a、34bが全閉状態と全開状態との間で遷移することができることについても記載されている。

してみれば、引用文献1に記載された発明と請求項1-5, 10-13, 17-19に係る発明は、その構成において差異はない。

- ・請求項 6-9, 20
- ・理由 2
- ・引用文献等 1-5
- ・備考

引用文献2の段落【0016】、【0017】、図2、引用文献3の段落【0025】-【0027】、図2、図3、引用文献4の段落【0010】、図4、引用文献5の段落【0024】-【0027】、図2、図3を参照されたい。

上記文献には、自動車用空調装置において、エアミックスドアを第1部分のドアと第2部分のドアの2部分で構成し、第1部分のドアと第2部分のドアをヒンジを介して互いに移動可能に結合し、一方の末端がガイド内で支承され、他方の末端を駆動装置と連結されたようにした点が記載されている。

引用文献1に記載された発明のミックスドア34a、ミックスドア34bにおいて、引用文献2-5に記載された発明を適用することは当業者であれば容易に想到し得る。

なお、引用文献2の図6には、ヒータコア4への空気の流通を全閉とするとき第1ドア部11がケーシングに当接する点が記載されている。

- ・請求項 14, 15
- ・理由 2
- ・引用文献等 1-6
- ・備考

車両用空気調和装置において、複数のドアを一つの駆動源で駆動させることは本願出願前から周知の事項である（例えば、引用文献6の段落【0003】-【0005】、図5を参照のこと。）。

- ・請求項 16
- ・理由 2
- ・引用文献等 1-7
- ・備考

車両用空気調和装置において、ドアごとに独自の駆動源を設けることは本願出

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願前から周知の事項である（例えば、引用文献7の段落【0038】、図1を参照のこと。）。

なお、段落【0014】に「図2は最大冷却性能の運転モードにおける空調ハウジング1の原理図である。」と記載されているが、図2は最大加熱性能の運転モードにおける本願発明の状態をあらわしている図ではないか。

引 用 文 献 等 一 覧

1. 特開平10-250346号公報
 2. 特開2000-38016号公報
 3. 特開平11-291742号公報
 4. 特開平6-270654号公報
 5. 特開2000-190722号公報
 6. 特開2002-46453号公報
 7. 特開平7-76207号公報
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先行技術文献調査結果の記録

・調査した分野 I P C B 6 0 H 1 / 0 0

・先行技術文献

欧州特許出願公開第1336517号明細書

仏国特許出願公開第2773110号明細書

国際公開第96/29211号

（車両用空調装置において、ヒータコアの両側面側にエアミックスドアを設ける点が記載されている。）

この先行技術文献調査結果の記録は、拒絶理由を構成するものではない。

お問い合わせ先

特許審査第二部 热機器（冷却機器） 後藤健志

(T E L) 03-3581-1101 内線3375